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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/676,340	10/01/2003	James Feeney	577-583	7155
23869 7590 11/05/2008 HOFFMANN & BARON, LLP 6900 JERICHO TURNPIKE SYOSSET, NY 11791				
EXAMINER				
AN, IG TAI				
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3687				
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11/05/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/676,340

**Applicant(s)**

FEENEY ET AL.

**Examiner**

lg T. An

**Art Unit**

3687

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4, 6-17 and 19-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-17 and 19-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)
- Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

The Amendment filed on 14 August 2008 has been acknowledged. Claims 1 – 4, 6 – 9, 12 – 13, 16 and 20 are amended. Claims 5 and 18 are cancelled. Therefore, Claims 1 - 4, 6 - 17 and 19 - 25 are pending and considered as set forth.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1 – 4, 6 – 9, 11 – 15, 17, 19 – 21, 23 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haluska (US 5638519) in view of Heindel et al. (Hereinafter Heindel) (US 6304857) and in further view of Duncan et al. (hereinafter Duncan) (US 20030083890).

**As per Claims 1 and 12**, Haluska teaches a method for complementing the inventory level of a distributor with the inventory of a manufacturer to fill an order requisition from a customer (Abstract and Column 6 lines 65 - Column 7 line 3) comprising the steps of:

providing a distributor computer capable of accessing inventory information relating to said distributor inventory and said manufacturer inventory (Column 5 lines 53 – 67 teaches distributor computer accessing both distributor and manufacturer's inventories);

accepting the customer order requisition from said distributor (Column 1 lines 15 – 37 teaches accepting customer orders at the supplier/vendor);

filling the customer order requisition from at least one of said distributor inventory or manufacturer inventory (Column 5 line 20 – 67 and Column 6 lines 55 – Column 7 lines 46 teaches filling the customer order distributor inventory or manufacturer inventory);

generating a customer shipping document indicating fulfillment of said customer order requisition by said distributor (Column 5 line 20 – 67 teaches generating customer shipping document such as invoice from the distributor inventory); and

However, Haluska is silent regarding wherein said customer shipping document comprises the distributor's name and logo. Heindel discloses distributed electronic billing system with gateway interfacing biller and service center having wherein said customer shipping document comprises the distributor's name and logo (Abstract and

Figure 2 teaches customized billing statement such as invoice with customizable name and logos).

All the components are known in Haluska and Heindel. The only difference is the combination of the "old elements" into a single shipping document by customizing the shipping document to have distribution names and logos instead of manufacturer names and logos.

Therefore, it would have been obvious to one of ordinary skill in the art to have distributor's name and logos on the shipping documents instead of manufacturer's name and logos as taught by Haluska and Heindel and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

The combination of Haluska and Heindel teaches all the elements of the claimed invention but is silent regarding shipping by said distributor or said manufacturer of said customer shipping document with said filled customer order.

Duncan discloses automated pack out discloses shipping by said distributor or said manufacturer of said customer shipping document with said filled customer order (Duncan, Figure 1 and Paragraph 2 teaches sending the customer order with shipping documents).

Therefore, from this teaching of Duncan, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify take customer order and ship the customer order from either distributor or manufacturer of the combination of Haluska and Heindel to include sending the customer shipping document such as

invoice with the customer order as taught by Duncan to confirm the ordered product and the price with customer.

Furthermore, all the claimed elements were known in the prior arts of Haluska, Heindel and Duncan, and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

**As per Claims 2 and 13**, Haluska teaches wherein said filling is from manufacturer inventory at a manufacturer location (Column 5 lines 40 – lines 67, Column 6 line 55 – Column 7 line 3 and Column 7 lines 11 – 21). Haluska is silent regarding wherein said manufacturer location is selected from one or more manufacturer locations.

The Examiner takes Official Notice that is old and well known in the art of the distributor/wholesaler to purchase products from multiple manufacturers to sell to customers or retailers.

Evidence of this common practice is taught by BJ's Club. BJ's Club discloses distributor/wholesaler purchase product from multiple manufacturers to sell to customers or retailers in <http://www.bjs.com>.

Furthermore, modifying the combination of Haluska, Heindel and Duncan to include a distributor deals with multiple manufacturers would not have otherwise affected the method of the combination of Haluska, Heindel and Duncan and would merely represented one of numerous steps that one skilled in the art would have found

obvious for the purpose already disclosed by the combination of Haluska, Heindel and Duncan. Additionally, applicant has not persuasively demonstrated the criticality of providing this step versus the steps disclosed by the combination of Haluska, Heindel and Duncan.

**As per Claims 3 and 15,** Haluska teaches wherein said generating step comprises generating said shipping documents at said manufacturer location where said customer order requisition is filled (Column 5 lines 20 – 51 and Column 6 lines 55 – Column 7 line 32).

**As per Claim 4,** Haluska teaches wherein said generating step further comprises providing a manufacturer computer, said manufacturer computer being capable of generating said shipping documents (Column 5 lines 20 – 51 and Column 6 lines 55 – Column 7 line 32).

**As per Claims 6, and 19,** Haluska teaches wherein said customer shipping document further comprises unique customer identifier information (Figure 3, Column 5 line 40 – 51 and Column 6 lines 65 – Column 7 line 33).

**As per Claims 7 and 20,** Haluska teaches wherein said filling step further comprises transmitting said unique customer identifier information from said distributor computer to said manufacturer computer (Figure 3, Column 5 lines 20 – 67).

**As per Claims 8 and 14,** Haluska teaches providing a manufacturer computer, said manufacturer computer being capable of providing inventory levels, prices, order acknowledgements, advanced shipping notices, and invoices to said distributor

computer (Figure 1 and Column 5 lines 40 – 67 and Column 6 lines 65 – Column 7 line 3).

**As per Claims 9 and 23**, Haluska teaches wherein said accessing is through an electronic network that allows said distributor to access said manufacturer inventory (Column 5 lines 20 – 39 and 53 – 67).

**As per Claims 11 and 25**, Haluska teaches allocating said identified purchase orders to manufacturer locations capable of filling said orders (Column 5 lines 20 – 67, Column 6 lines 65 – Column 7 lines 33).

**As per Claim 17**, Haluska teaches all the elements of the claimed invention, but is silent regarding wherein shipping documents does not include the manufacturer logo thereon.

Heindel discloses distributed electronic billing system with gateway interfacing biller and service center having wherein shipping documents does not include the manufacturer logo thereon (Abstract and Figure 2 teaches having customizable logo. Therefore, the Examiner construes that the manufacture's logo is not used in order to use distributor's logo on the billing statement).

All the components are known in Haluska and Heindel. The only difference is the combination of the "old elements" into a single shipping document by customizing the shipping document to have distribution names and not including the manufacturer logo.



Therefore, it would have been obvious to one of ordinary skill in the art to have distributor's name and logos on the shipping documents instead of manufacturer's name and logos as taught by Haluska and Heindel and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

**As per Claim 21**, Haluska teaches all the elements of the claimed invention but is silent regarding wherein said transmitted unique customer identifier information comprises the name and address of said customer.

Heindel discloses distributed electronic billing system with gateway interfacing biller and service center having wherein said transmitted unique customer identifier information comprises the name and address of said customer (Figure 2).

All the components are known in Haluska and Heindel. The only difference is the combination of the "old elements" into one customer identification information by adding customer's name and address to the customer identification information.

Therefore, it would have been obvious to one of ordinary skill in the art to transmit customer identification information which includes customer's name and address as taught by Haluska and Heindel and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

**4. Claims 10 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haluska in view of Heindel and in further view of Duncan and in further view of Johnson et al. (hereinafter Johnson) (US 6023683).**

**As per Claims 10 and 24**, Haluska teaches all the elements of the claimed invention but is silent regarding transmitting a purchase order from said distributor to said manufacturer, said purchase order being identified as for direct shipping to said customer from said manufacturer location where said order is filled.

Johnson discloses electronic sourcing system and method transmitting a purchase order from said distributor to said manufacturer, said purchase order being identified as for direct shipping to said customer from said manufacturer location where said order is filled (Column 17 lines 34 – 54).

Therefore, from this teaching of Johnson, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify manufacturer and distributor share the view of inventory levels and the order is processed from either distributor or manufacturer of Haluska to include direct shipping from the manufacturer as taught by Johnson to reduce shipping time.

Furthermore, all the claimed elements were known in the prior arts of Haluska and Johnson and one in the one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

**5. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Haluska in view of Heindel and in further view of Duncan and in further view of Joao (US 20020099567).**

**As per Claim 16**, Haluska teaches all the elements of the claimed invention but is silent regarding a packing slip, a pallet posting documents and a container pack list.

Joao discloses apparatus and method for providing shipment information having a packing slip, a pallet posting documents and a container pack list (Abstract and Paragraph 2).

Therefore, from this teaching of Joao, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify manufacturer and distributor share the view of inventory levels and the order is processed from either distributor or manufacturer of Haluska to include shipping document comprise packing slip or document can be attached to pallet or container as taught by Joao to easily identify the shipping materials.

Furthermore, all the claimed elements were known in the prior arts of Haluska and Joao and one in the one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

**6. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Haluska in view of Heindel and in further view of Duncan and in further view of Estes et al. (Hereinafter Estes) (US 20030208411).**

**As per Claim 22**, Haluska teaches all the elements of the claimed invention but is silent regarding wherein said the customer-selected delivery method.

Estes discloses system, method, and article of manufacture for shipping a package privately to a customer having the customer-selected delivery method (Paragraph 90).

Therefore, from this teaching of Estes, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify manufacturer and distributor share the view of inventory levels and the order is processed from either distributor or manufacturer of Haluska to include customer selected delivery method as taught by Estes to increase customer satisfaction.

Furthermore, all the claimed elements were known in the prior arts of Haluska and Estes and one in the one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

***Response to Arguments***

7. Applicant's arguments filed 14 August, 2008 have been fully considered but they are not persuasive.
8. Applicant's arguments with respect to claims 1 - 2, and 12 – 13 have been considered but are moot in view of the new ground(s) of rejection.

The Applicant argues, "Johnson does not teach or suggest a system wherein a distributor has access to the inventory of a manufacturer, locates an item ordered by a customer and transmits a customer shipping document with distributor information to the manufacturer, which is then shipped to the customer with the order" and "However, there is no teaching or suggestion that the distributor transmits a customer shipping document to a manufacturer and that the customer shipping document only contains information identifying the distributor and not the manufacturer" for Claims 10 and 24.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

The Examiner further notes that the elements the Applicant argues are covered by the combination of Haluska, Heindel and Duncan in claims 1 - 2, and 12 – 13. Johnson teaches the elements of the claims 10 and 24 which are "transmitting a purchase order from said distributor to said manufacturer, said purchase order being identified as for direct shipping to said customer from said manufacturer location where

said order is filled." Therefore, combining the combination of Haluska, Heindel and Duncan and the Johnson covers all the elements the Applicant argues.

The Applicant next argues, "There is no teaching or suggestion in Joao of an order being shipped with shipping documents which contain information that only identifies the distributor."

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

The Examiner further notes that the elements the Applicant argues are covered by the combination of Haluska, Heindel and Duncan in claims 1 - 2, and 12 - 13. Joao teaches the elements of "a packing slip, a pallet posting documents and a container pack list" in Claim 16. Therefore, combining the combination of Haluska, Heindel and Duncan and the Joao covers all the elements the Applicant argues.

The Applicant next argues, "Estes neither teaches nor suggests a method wherein the order is shipped with shipping documents which contain information that only identifies the distributor."

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208

USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

The Examiner further notes that the elements the Applicant argues are covered by the combination of Haluska, Heindel and Duncan in claims 1 - 2, and 12 - 13. Estes teaches the elements the claims 22 which are "the customer-selected delivery method." Therefore, combining the combination of Haluska, Heindel and Duncan and the Estes covers all the elements the Applicant argues.

### ***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ig T. An whose telephone number is (571)270-5110. The examiner can normally be reached on Monday - Thursday from 9:30 AM to 5 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew S. Gart can be reached on 571-272-3955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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